

**DCNW2004/1404/M - VARIATION OF CONDITIONS 9 &
10 OF PLANNING PERMISSION NW2002/0573/M
(OPERATING HOURS AND NOISE RESTRICTIONS).
LEINTHALL QUARRIES, LEINTHALL EARLS,
LEOMINSTER, HEREFORDSHIRE, HR6 9TR**

**For: Johnstone Roadstone Ltd per Wardell Armstornng
Lancaster Building High Street Newcastle-under-Lyme
ST5 1PQ**

Date Received:

4th May 2004

Ward:

Mortimer

Grid Ref:

44263, 68035

Expiry Date:

29th June 2004

Local Member: Councillor Mrs L.O. Barnett

1. Site Description and Proposal

1.1 Leinthall Earls Quarry is approximately 0.5km north of Leinthall Earls, about 2km south-east of Wigmore and 2km east of the A4110. The nearest houses to the tarmac coating plant site are Church Cottage - 130m to the south east, West Lodge and Old School House, 220m and 240m respectively to the south. There are a further ten houses within 400m of the plant.

1.2 A quarry has been operational at this site since before 1955. Permission, with 23 conditions, was given for a large extension to the quarry in August, 2002. Conditions 9 and 10 of that permission controlled the hours of working and the maximum noise levels and from where they should be measured. The application is to vary these. Specifically, Condition 9 currently states:

“No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 0600-1800 Monday to Friday and 0600-1200 on Saturdays, nor at any time on Sundays, Bank or Public Holidays, except that until 10th August 2004.

(i) the tarmac coating plant shall be allowed to commence at 0500 Monday to Saturday

(ii) on up to 6 occasions in each of the calendar years 2002, 2003 and 2004, the operation and the use of the tarmac coating plant and loading and despatch of vehicles on Sundays may be undertaken. A record of the date of such Sunday working shall be forwarded in writing to the Local Planning authority within 3 working days of each and every occasion of Sunday working.”

1.4 The application is to vary this condition to retain the daily commencement of the tarmac coating plant from 0500hrs and to operate its tarmac coating plant on up to 6 Sundays every year.

Condition 10 currently states:

“(i) The noise from the quarry operations shall not exceed 55dB LAeq 1h at the facade of all neighbouring residential properties (including farm houses) between the hours of 0600 and 1800, except during the Phase 1 soil, subsoil and overburden movement, when the maximum noise shall not exceed 70dB LAeq.1h except that

(ii) The level of noise emitted from the roadstone coating plant shall not exceed 42dB LAeq.1h between 0500 and 0600 Monday to Saturday, as measured at a distance of 60m from the plant, in a south-easterly direction towards the village of Leinthall Earls. All measurements are to be taken in accordance with BS 4142, 1997.”

1.5 The application is to vary part (ii) of the condition to read:

“(ii) the level of noise emitted from the roadstone coating plant shall not exceed 42dB LAeq, between 0500 and 0600 Monday to Saturday, as measured at the nearest residential property. All measurements are to be taken in accordance with BS4142, 1997.”

1.6 They also request that the averaging time should be set at 5 or 10 minutes, rather than 1 hour, on the grounds that it is practically impossible to collect a full hour of measurement in one hour measurement window between 0500 and 0600hrs and, at the same time, pause the measurement periodically due to birds, sheep or road traffic and that allowing a 5 or 10 minute averaging of noise measurement will allow for more accurate data to be obtained.

2. Policies

2.1 Planning Policy Guidance

PPG1 - General Policy and Principles

PPG24 – Planning and Noise

MPG1 - General Considerations (1996)

MPG2 - Applications, Permission and Conditions (Revised 1998)

MPG11 - The Control of Noise at Surface Mineral Workings (1993)

MPS2 - Controlling and Mitigating the Environmental Effects of Mineral Working:
Revised Consultation Paper (2003)

2.2 Hereford & Worcester Minerals Local Plan

Policy 15 - Maintenance of Environmental Standards

2.3 Leominster District Local Plan (Herefordshire)

A1 - Managing the District's Assets and Resources

A54 - Protection of Residential Amenity

2.4 Hereford UDP (Revised Deposit Draft)

S2 - Development Requirements

S9 - Minerals
DR4 - Environment
DR13 - Noise

3. Planning History

Five permissions for extensions to quarrying in 1955, 1959 (2), 1977 and 1982, effectively consolidated by Hereford and Worcester Code 407351 (Leominster 94/0529), granted 3rd May, 1996.

NW2002/0573/M - Extension to Quarry (imposing new conditions over entire site) granted 27th August, 2002.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency: No objections
- 4.2 Transportation Manager: No objection
- 4.2 National Trust: Orally – No objection

Internal Council Advice

- 4.3 Environmental Health Officer comments as follows:

“Condition 9

- Following the noise condition imposed in the 2002 consent, a series of noise attenuation works were undertaken to the roadstone coating plant in an attempt to meet the tight noise limit set by condition 10 to protect the nearest housing. When last asked to review this in early 2004, it was clear that some significant improvements had been made, but that the 42dB noise level at 60m could not be met.
- However, since the granting of planning permission in 2002, Environmental Health and Trading Standards have not received a complaint concerning the noise from the roadstone coating plant. If we assume that the plant has been operating from 0500 onwards Monday to Friday, you may wish to conclude that the level of noise attenuation work undertaken as a consequence of the 2002 consent has been sufficient to allow the operation without any serious detriment to the nearest houses.
- I am therefore minded not to object to the amendment suggested, although I would recommend keeping the consent temporary. This is because my noise measurements imply that the absence of complaint is dependent on the tolerance of the nearest neighbours and that this situation could change with the occupancy of these houses.
- I would urge you to retain the Bank Holiday, Saturday and Sunday restrictions.

Condition 10

- As mentioned above, the noise levels at this site have improved, although the requirements of condition 10 have not been met. In view of the absence of complaints, I would accept that this condition can now be reworded in accordance with MPG11, i.e.

“At a distance of 3.5m from the nearest façade of the nearest residential property, the noise level from the quarrying, roadstone coating and vehicle activities on site shall not exceed:

(i) 55 dBL_{Aeq,1hr} between 0700 to 1900 nor

(ii) 42 dBL_{Aeq,1hr} between 0500 to 0700

No noisy operations on site that will be audible at the nearest houses shall be permitted between 1900 to 0500.

Note: All measurements to be taken in accordance with BS 4142”.

- It is considered that this condition, or other similarly worded condition, should allow Johnston Roadstone to continue to operate competitively, whilst still affording noise protection to the amenity of the nearby rural community.

5. Representations

5.1 Aymestrey Parish Council state:

"This application should be refused, unless it can be proved that residents at Leinthal Earls have been contacted for their opinion. Council are aware of several complaints, though, to their knowledge, none have been submitted to Johnstone Roadstone Ltd. The increase in noise level and the wish to extend working hours to Sundays (although this has currently been the case) is not felt to be acceptable on a Sunday in a rural area."

5.2 Two letters of concern have been received from:

S Dawson and J Fieldhouse of
PearTree Farm, Wigmore, HR6 9UR; and

Mr. I.H. Pierce of
The Wylde, Leinthal Earls, HR6 9TU.

The first expresses concern that the extension of working hours will extend the time of vehicle movements, increasing noise impacts on the village, to the detriment of their business and the tourism industry.

The second claims that two Parish Councillors in Leinthal Earls have had complaints about noise starting as early as 4.00 am and that, because the company have not asked local people, their claim that no complaints have been made is stretching the truth. He also questions why the conditions were imposed and makes assertions about tree planting failures and that the Council did not adequately assess the original geological assessment.

5.3 The full text of these letters can be inspected at Planning Services: Minerals & Waste, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 This application is to vary two conditions on the existing planning permission. The proposed variation to Condition 9 would be for:

- a) the tarmac coating plant to commence at 0500 hours, Monday to Friday; and
- b) the tarmac coating plant and loading and despatch of vehicles to be undertaken on 6 Sundays per year.

6.2 Under the terms of the existing condition, these were permitted, as an experiment, up to 10th August, 2004.

6.3 The principal issues at stake are the balance to be struck between the interests of the applicant and the potential adverse effects to local people.

6.4 Members should be aware that the tarmac coating plant is quite separate from the main mineral (crushing) plant. It exists to create an "added value" to mineral dug at the site, providing coated roadstone for highway construction. It is the only such plant in Herefordshire (there is none in Worcestershire) and is regionally important. The market for the material is very wide.

6.5 The applicant has explained orally that it is necessary to supply developers with the material as early as possible in the day, particularly if the contracts to be met are some distance from the Wigmore area. Members should be aware that the permission applied for is only to operate the plant (to mix and heat the tarmac mixture) from 5.00am. The part of the condition preventing lorry movements before 6.00 am would be retained.

6.6 The request to allow Sunday working on up to 6 occasions every year is related to the same argument and, particularly, that the company would be at a commercial disadvantage if it could never offer this service. Sunday working was only undertaken on 3 occasions in 2003 and, to date, on 1 in 2004.

6.7 In the widest sense, National and Development Plan policies support the idea of enabling operators to meet market conditions, subject to the acceptable mitigation of any adverse effects.

6.8 The proposed variation to Condition 10 relates entirely to a technical issue of where and how noise limits should be assessed. The proposal is to leave the permitted noise limit from the tarmac coating plant unchanged at 42dB La eq, but to measure it from the nearest residential property over a shorter period, rather than, at present, at a specified distance (60m, which is well within the quarry itself) over a longer period.

6.9 Existing National Policy guidance is not clear over which is the recommended approach. In setting the existing condition, Officers used the more strict standards recommended in PPG 24, treating the tarmac plant as an independent industrial process. The applicant's case is, in essence, that the plant is an integral part of the quarry and should be assessed according to MPG11, which recommends measurement from the nearest noise-sensitive property and allows for periods "shorter than 1 hour,

e.g. 15 minutes”. Officers have consulted all other MPA’s and the few who have replied favour using MPG11, which supports the applicant’s case.

6.10 The Council’s Environmental Health Officer’s advice is that the application should be permitted in a qualified way and on a further, temporary basis. Officers believe that this should be sufficient to give the company the flexibility it wishes, whilst providing local people with the safeguard that the Council will be able to reconsider the operations in practice in a few years’ time.

RECOMMENDATION

1. That Conditions 9 and 10 in permission NW2002/0573/M, granted 27th August, 2002, be deleted and replaced by the following new conditions:

9. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 0600-1800 Monday to Friday and 0600-1200 on Saturdays, nor at any time on Sundays, Bank or Public Holidays, except that, until 10th August, 2009:

- (i) the tarmac coating plant shall be allowed to commence at 0500 Monday to Saturday and**
- (ii) on up to 6 occasions in each calendar year, the operation and the use of the tarmac coating plant and loading and despatch of vehicles on Sundays may be undertaken. A record of the date of such Sunday working shall be forwarded in writing to the Local Planning authority within 3 working days of each and every occasion of Sunday working.**

Reason: In order to protect the amenity of occupiers of nearby properties

10. At a distance of 3.5m from the nearest façade of the nearest residential property, the noise level from the quarrying, roadstone coating and vehicle activities on site shall not exceed:

- (i) 55dBL Aeq,1hr between 0700 to 1900hrs nor**
- (ii) 42dBL Aeq,1hr between 0500 to 0700hrs**

No noisy operations on site that will be audible at the nearest houses shall be permitted between 1900 to 0500hrs

All measurements to be taken in accordance with BS 4142.

Reason: In order to protect the amenity of occupiers of nearby properties.

2. That Officers named in the Scheme of Delegation to Officers be authorised to amend the other conditions on the permission as they consider necessary to reflect that the permission for mineral extraction has been commenced and that the wording of some conditions (e.g. A01 standard commencement) are no longer relevant.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.